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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91181991
Party	Defendant XShares Advisors LLC
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Date	07/28/2008
Attachments	XShares-answer.pdf (6 pages)(191631 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BARCLAYS GLOBAL INVESTORS, N.A., a)	
National Banking Association,)	Opposition No. 91181991
)	
Opposer,)	Serial No. 77/108,374
)	
v.)	
)	
XSHARES ADVISORS LLC, a Delaware Limited)	
Liability Company,)	
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

Applicant XShares Advisors, LLC, for its answer to Opposer Barclays Global Investors N.A.'s Notice of Opposition in the above-captioned proceeding, states as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice of Opposition, and therefore denies the same.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Notice of Opposition, and therefore denies the same, except Applicant admits that Opposer purports to oppose registration of application serial number 77/108,374.
3. Applicant admits the allegations of paragraph 3 of the Notice of Opposition.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Notice of Opposition, and therefore denies the same, except admits that Exhibit A purports to include copies of certain records of the PTO.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Notice of Opposition, and therefore denies the same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Notice of Opposition, and therefore denies the same.

7. With respect to the first sentence of paragraph 7 of the Notice of Opposition, Applicant admits that it indicated in its February 15, 2007 application, its intent to use the XSHARES mark for financial services, which services were subsequently amended to those set forth therein. Applicant admits the allegations of the second sentence of paragraph 7, and denies the allegations of the third sentence of that paragraph.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of paragraph 8 of the Notice of Opposition, and therefore denies the same. Applicant denies the allegations of the second sentence of that paragraph.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Notice of Opposition, and therefore denies the same.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Notice of Opposition, and therefore denies the same.

11. With respect to paragraph 11 of the Notice of Opposition, Applicant denies that the iSHARES mark is famous as alleged therein, and states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 11 of the Notice of Opposition, and therefore denies the same.

12. Applicant admits the allegations of the first sentence of paragraph 12 of the Notice of Opposition. With respect to the remainder of paragraph 12, Applicant denies that BGI's iSHARES products are famous as alleged therein, and states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein and therefore denies the same.

13. Applicant denies the allegations of paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations of paragraph 14 of the Notice of Opposition.

15. Applicant denies the allegations of paragraph 15 of the Notice of Opposition.

16. Applicant denies the allegations of paragraph 16 of the Notice of Opposition.

17. Because paragraph 17 of the Notice of Opposition does not call for a response from Applicant, none is made herein.

AFFIRMATIVE DEFENSES

Applicant asserts the following affirmative defenses:

1. The Notice of Opposition fails to state a claim upon which relief may be granted because Opposer will not be damaged in any way by registration of Applicant's XSHARES mark on the Principal Register.

2. Applicant's trademark XSHARES does not violate Opposer's rights under the trademark laws of the United States or any other laws.

3. Applicant's trademark XSHARES is not confusingly similar to or in conflict with Opposer's alleged use of iSHARES. There is no likelihood of confusion between Applicant's mark and the alleged Opposer's mark. Moreover, the marks are dissimilar in overall appearance, sound, meaning and commercial impression.

4. Applicant reserves the right to add additional defenses as may become known through discovery.

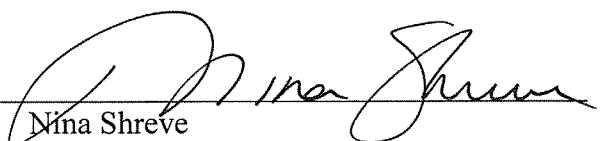
WHEREFORE, Applicant prays for judgment in its favor, dismissing Opposer's Notice of Opposition with prejudice, and that its application for its XSHARES mark, serial number 77/108,374 be accepted and registered on the Principal Register.

Dated: July 28, 2008

Respectfully submitted,

FITZPATRICK, CELLA, HARPER & SCINTO

By: _____



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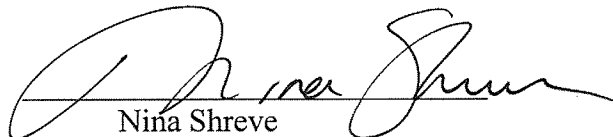
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Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on this the 28th day of July, 2008, a true and correct copy of the foregoing Answer to Notice of Opposition has been served upon counsel for Opposer at the address set forth below, by email and first class mail, postage prepaid.

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